

## Message Text

CONFIDENTIAL

PAGE 01 STATE 257536  
ORIGIN EUR-12

INFO OCT-01 ISO-00 L-03 ACDA-12 DODE-00 SS-15 SSO-00  
INRE-00 CIAE-00 PM-05 INR-07 NSAE-00 PA-01 PRS-01  
SP-02 TRSE-00 /059 R

DRAFTED BY S/AR:GHALDRICH  
APPROVED BY S/AR:GHALDRICH  
EUR/RPM:MBARNES (DRAFT)  
L/T:AROVINE (DRAFT)  
ACDA:MMAZEAU (DRAFT)  
DEFENSE:DANDERSON (DRAFT)  
-----063951 272012Z /56  
O R 271946Z OCT 77  
FM SECSTATE WASHDC  
TO USMISSION USNATO IMMEDIATE  
INFO AMEMBASSY BONN

C O N F I D E N T I A L STATE 257536

HOLD FOR OPENING OF BUSINESS

E.O. 11652: GDS

TAGS: NATO, PFOR, PARM

SUBJECT: POLADS CONSIDERATION OF MILITARY COMMITTEE  
REVIEW OF PROTOCOL I TO THE GENEVA CONVENTIONS

REF: USNATO 9996

1. AS REQUESTED REFTEL, FOLLOWING ARE USG COMMENTS ON  
UNDERSTANDINGS TO BE MADE AT TIME OF SIGNATURE OF PROTOCOLS.  
MISSION MAY CIRCULATE THESE COMMENTS IN ADVANCE AND DRAW  
UPON THEM FOR POLADS DISCUSSION.

2. USG IS PRESENTLY STAFFING POSITION ON SIGNATURE AND  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 257536

UNDERSTANDINGS BUT HOPES TO BE IN POSITION TO SIGN BOTH  
PROTOCOLS ON OR SHORTLY AFTER DECEMBER 12. BEST PRESENT  
ESTIMATE IS THAT WE SHALL SUBMIT IN WRITING AT TIME OF  
SIGNATURE THREE STATEMENTS OF UNDERSTANDING, TEXTS OF WHICH  
WILL BE ALONG FOLLOWING LINES:

A. PROTOCOL I

-- 1. IT IS THE UNDERSTANDING OF THE UNITED STATES OF AMERICA THAT THE RULES ESTABLISHED BY THIS PROTOCOL WERE NOT INTENDED TO HAVE ANY EFFECT ON AND DO NOT REGULATE OR PROHIBIT THE USE OF NUCLEAR WEAPONS.

-- 2. IT IS THE UNDERSTANDING OF THE UNITED STATES OF AMERICA THAT THE PHRASE "MILITARY DEPLOYMENT PRECEDING THE LAUNCHING OF AN ATTACK" IN ARTICLE 44, PARAGRAPH 3, MEANS ANY MOVEMENT TOWARDS A PLACE FROM WHICH AN ATTACK IS TO BE LAUNCHED.

#### B. PROTOCOL II

-- IT IS THE UNDERSTANDING OF THE UNITED STATES OF AMERICA THAT THE TERMS USED IN PART III OF THIS PROTOCOL WHICH ARE THE SAME AS THE TERMS DEFINED IN ARTICLE I OF PROTOCOL I SHALL SO FAR AS RELEVANT BE CONSTRUED IN THE SAME SENSE AS THOSE DEFINITIONS.

3. USG RECOGNIZES THAT UNDERSTANDINGS AND RESERVATIONS NEED NOT BE MADE AT TIME OF SIGNATURE, AND THERE MAY BE ADDITIONS OR OTHER CHANGES BY TIME RATIFICATION IS DEPOSIT-ED, BUT WE BELIEVE THAT IT IS CLEAR THAT THESE THREE STATEMENTS WILL BE INCLUDED AND THEREFORE COULD USEFULLY BE STATED AT TIME OF SIGNATURE.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 257536

4. NUCLEAR STATEMENT IS MOST IMPORTANT. SOME MAY ARGUE THAT IT IS UNNECESSARY AS IT STATES A POSITION TAKEN CONSISTENTLY THROUGHOUT THE CONFERENCE BY REPS OF US, UK, AND FRANCE, A POSITION THAT WAS CONTRADICTED BY ONLY ONE REPRESENTATIVE (INDIA). IN VIEW OF THE IMPORTANCE OF CLARITY ON THIS QUESTION, HOWEVER, AND PARTICULARLY IN LIGHT OF ARTICLES 35 AND 55 OF PROTOCOL WHICH PROHIBIT MEANS OF WARFARE INTENDED OR MAYBE EXPECTED TO CAUSE WIDESPREAD, LONG-TERM AND SEVERE DAMAGE TO THE NATURAL ENVIRONMENT, WE BELIEVE WE SHOULD MAKE THIS STATEMENT FOR THE RECORD AT TIME OF SIGNATURE.

5. IT WOULD BE HIGHLY DESIRABLE FOR ALL MEMBERS OF THE ALLIANCE TO STATE SIMILAR UNDERSTANDINGS ON THE NUCLEAR QUESTION. ALTHOUGH MOST IMPORTANT THING IS THAT THESE STATEMENTS BE LEGALLY EFFECTIVE AND THEREFORE BE MADE AT TIME OF RATIFICATION, WE SEE CLEAR VALUE IN SHOWING NATO SOLIDARITY BY HAVING ALL NATO MEMBERS MAKE EITHER WRITTEN OR ORAL STATEMENTS OF UNDERSTANDING ON THIS POINT AT TIME OF SIGNATURE.

6. THE UNDERSTANDING CONCERNING THE TERM "DEPLOYMENT" IN ARTICLE 44 IS NECESSITATED BY THE FACTS THAT THE TERM IS OF CRITICAL IMPORTANCE FOR THE PROTECTION OF THE CIVILIAN POPULATION, AND ITS MEANING WAS DISPUTED AT THE TIME THE ARTICLE WAS ADOPTED. WE MUST INSIST THAT A GUERRILLA WHO TAKES ADVANTAGE OF HIS ENEMY BY PRETENDING TO BE AN UNARMED CIVILIAN WHILE MOVING TOWARD THE POSITION FROM WHICH HE IS TO ATTACK FORFEITS HIS STATUS AS A COMBATANT AND PRISONER OF WAR AND MAY BE TRIED AND PUNISHED FOR ANY OFFENSES HE HAS COMMITTED. ALTHOUGH MOST REPRESENTATIVES WHO SPOKE TO THIS QUESTION AGREED WITH US, A FEW INTERPRETED THE TERM "DEPLOYMENT" SO AS TO REQUIRE THE GUERRILLA TO DISTINGUISH HIMSELF FROM THE CIVILIAN POPULATION ONLY JUST BEFORE HE BEGINS HIS ATTACK. IN VIEW OF THIS DIVISION OF  
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 257536

OPINION, OUR UNDERSTANDING SHOULD BE CLEARLY AND FORMALLY STATED.

7. THE UNDERSTANDING CONCERNING PROTOCOL II (TO INTERPRET CERTAIN TERMS AS THEY ARE DEFINED IN PROTOCOL I) IS TECHNICAL AND RESULTS MERELY FROM THE DELETION OF AN ARTICLE ON DEFINITIONS WHEN PROTOCOL II WAS COMPRESSED AT THE END OF THE CONFERENCE.

8. USG REMAINS TROUBLED BY UNREALISTIC RESTRICTIONS ON RIGHTS OF REPRISAL IN THE EVENT OF MASSIVE ATTACKS ON THE CIVILIAN POPULATION. NO FINAL DECISION HAS YET BEEN TAKEN ON WHETHER A RESERVATION SHOULD BE MADE ON THIS POINT. IN ANY EVENT, HOWEVER, WE DO NOT REPEAT NOT THINK IT LIKELY THAT SUCH A RESERVATION WOULD BE STATED AT TIME OF SIGNATURE

9. USG AGREES THAT OTHER INTERPRETATIONS IDENTIFIED IN MILITARY COMMITTEE REPORT ARE IMPORTANT, BUT WE DO NOT ANTICIPATE, AT THIS TIME, NEED FOR FORMAL STATEMENTS OF UNDERSTANDING CONCERNING THEM. WE WILL CONSIDER THEM IN AN ARTICLE-BY-ARTICLE ANALYSIS WITHIN THE USG. BASED ON THE ANALYSIS, WE WILL DECIDE WHETHER THEY OR SOME OF THEM WILL ACCOMPANY THE PROTOCOLS AND ANY OTHER UNDERSTANDINGS, INTERPRETATIONS, OR RESERVATIONS TO THE SENATE FOR ADVICE AND CONSENT.

VANCE

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INTERNATIONAL LAW, AGREEMENTS, WAR, POLICIES, TREATY SIGNATURE, COMMITTEES, NUCLEAR WEAPONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 27-Oct-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977STATE257536  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** GHALDRICH  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770395-0448  
**Format:** TEL  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1977/newtext/t19771014/aaaaallj.tel  
**Line Count:** 163  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 0f5b0426-c288-dd11-92da-001cc4696bcc  
**Office:** ORIGIN EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 USNATO 9996  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 12-Oct-2004 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 765717  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** POLADS CONSIDERATION OF MILITARY COMMITTEE REVIEW OF PROTOCOL I TO THE GENEVA CONVENTIONS  
**TAGS:** PFOR, PARM, US, NATO  
**To:** USNATO  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/0f5b0426-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009